

APPLICANTS:
Edward & Sharon Shaw

REQUEST: A variance to permit a covered porch within the required front yard setback in the R3 District

HEARING DATE: July 11, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5603

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Edward R. Shaw

CO-APPLICANT: Sharon A. Shaw

LOCATION: 2752 Parallel Path – Laurel Valley, Abingdon
Tax Map: 56 / Grid: 4F / Parcel: 536 / Lot: 5
First (1st) Election District

ZONING: R3 / Urban Residential

REQUEST: A variance pursuant to Sections 267-36B, Table VI and to 267-23C(1)(a)[2] of the Harford County Code to permit a covered porch to within the required 22 foot front yard setback (20.5 foot setback proposed) in the R3 District.

TESTIMONY AND EVIDENCE OF RECORD:

Edward R. Shaw, Co-Applicant, described the property owned by he and his wife as a 7,500 square foot lot, located in the Laurel Valley section of Abingdon. The real property is improved by a 24 foot by 26 foot, two-story framed dwelling, improved by a one-story framed addition to its rear.

Mr. Shaw explained, and his site plan demonstrates, that the home is set almost directly upon the 25 foot minimum front yard setback.

Mr. Shaw explained that the reason for his request is he and his wife's desire to construct a covered front porch along the front side of the home. The porch would have dimensions of 5-1/2 feet by 24 feet, and would extend for the entire front wall of the home. The finished foundation edge of the covered porch will be approximately 4-1/2 feet into the 25 foot minimum front yard setback. However, the Department of Planning and Zoning explains that the actual front yard setback required for this improvement is 22 feet. Accordingly, the requested variance is less than 2 feet.

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Mr. Shaw explained that the porch has been designed to help the property cope with a serious water problem. Mr. Shaw explained, and photographs in the file verify, that the front yard of the property is sloped toward, not away from, the house. Mr. Shaw, who is a building contractor, explained that the foundation is, in his opinion, one block too low. The house is accordingly not set as high as it should have been, and is not graded as it should have been. Water flows towards the house and into the foundation.

Mr. Shaw explained the numerous efforts he had undertaken in order to resolve the water problem. He attempted to construct a swale through the front yard but is unable to do so as it would impact the existing underground water line in that area. He has taken moisture readings in the basement and finds that the moisture level is at least 60% in the basement, which is along the front wall. He has two de-humidifiers running constantly, and has mold, dampness and mildew along the front wall of the basement. The sides and rear of the basement wall are not affected. He also has had termites which he attributes to the moisture along the front wall of the basement.

Mr. Shaw believes that his construction of a 5-1/2 foot wide by 24 foot deep front porch along the front of the house will enable him to correct the drainage problem. The construction of the porch will allow him to drain water both to the left side of the home, where it will meet an existing swale, and to the right through the driveway area and to a swale on that side.

The house does not now have a front porch and the addition would be an appropriate amenity even without the drainage problem.

Mr. Shaw has discussed his plans with his neighbors and none has expressed any opposition to the requested variance.

Mr. Shaw further explained a porch would normally have a depth of 6 feet in order to allow the Applicants space for opening the front door and for pedestrian traffic in and out. However, he plans to do a 5-1/2 foot deep front porch as he believes that will be sufficient for his purposes, and would minimize the extent of the variance requested.

The Harford County Department of Planning and Zoning recommends approval:

“The Department finds that the subject property is unique. The existing grade of the property does not allow for positive drainage away from the dwelling. The requested variance is less than 2 feet into the setback and will not have an adverse impact on the neighborhood or the intent of the Code. The porch will be consistent with other structures in the community. The Applicant has submitted statements from neighbors indicating they have no objection to the proposed porch addition. (Attachment 14).”

No evidence or testimony was given in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants have identified a serious problem with drainage in the front yard of their home. Mr. Shaw testified, convincingly, that the front yard of the home was not properly graded due, he believes, to the foundation of the home being “one block too short”. Whatever the reason, both his testimony and photographs introduced into evidence demonstrate that water does tend to drain against the front wall of the home and, by necessity, against the front wall of the basement. The Applicant described efforts to correct the problem, all of which have been stymied by the existing water line which prevents him from creating a swale in that area. It is impossible, given the low foundation, to add additional soil in order to create a slope away from the home.

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The Applicants have, instead, devised upon a plan to create a porch along the front wall of the home which will, in addition to improving the appearance of the home, act as a water bar to repel water from the front wall of the house and into swales on both sides of the home.

Mr. Shaw has contacted his neighbors and none of them has expressed any opposition.

The property obviously suffers from an unusual feature in that, for reasons attributable to the design of the home, the front yard does not drain properly. This drainage has created physical problems to the Applicants' home, and is certainly a situation which must be corrected. The Applicants have undertaken various steps to correct the problem, none of which have worked satisfactorily. Mr. Shaw believes that the construction of a porch, of the minimum size necessary to correct the problem, is an appropriate solution. The construction of that porch would cause a very minor impact of less than 2 feet into the required front yard setback.

Obviously, no adverse impact would result from this variance and, indeed, it will help protect the value of the Applicants' property and should act as an improvement to the neighborhood.

CONCLUSION:

It is, accordingly, recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections.

Date: August 2, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on AUGUST 30, 2007.